

# HOUSE . . . . . No. 987

By Mr. Hall of Westford, petition of Geoffrey D. Hall and others for legislation to establish a program for the treatment of certain sex offenders. The Judiciary.

## The Commonwealth of Massachusetts

### PETITION OF:

Geoffrey D. Hall                      Dennis Peloquin  
Steven C. Panagiotakos

In the Year Two Thousand and Five.

AN ACT ESTABLISHING A PROGRAM FOR THE TREATMENT OF CERTAIN SEX OFFENDERS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1     SECTION 1. Chapter 10 of the General Laws is hereby  
2 amended by adding the following section:—  
3     Section 62. There is hereby established on the books of the  
4 commonwealth a separate fund to be known as the Sex Offender  
5 Surcharge Trust Fund. Said trust fund shall consist of monies paid  
6 to the commonwealth pursuant to the provisions of section four C  
7 of chapter two hundred and seventy-nine, and any interest or  
8 investment earnings on such monies. The state treasurer, ex  
9 officio, shall be the custodian of said trust fund, and shall receive,  
10 deposit, and invest all monies transmitted to him under the provi-  
11 sions of this section, and shall credit interest and earnings on the  
12 trust fund to said trust fund. Upon request of the sex offender  
13 treatment board, the state treasurer shall pay such funds as may be  
14 appropriated out of the income and receipts of said trust fund, as  
15 said board may direct, for the purposes of sex offender treatment  
16 programs including, but not limited to, covering the costs associ-  
17 ated with the evaluation, identification, treatment and continued  
18 monitoring of sex offenders incurred pursuant to the programs  
19 established under section twenty-one of chapter twenty-two,

20 section one hundred and thirty-three C of chapter one hundred and  
21 twenty-seven and section eighty-seven B of chapter two hundred  
22 and seventy-six.

1 SECTION 2. Chapter 22 of the General Laws, is hereby  
2 amended by adding the following section:—

3 Section 21. There shall be in the department of public safety a  
4 board to be known as the sex offender treatment board. The board  
5 shall consist of the commissioner of the department of corrections,  
6 or his designee, the commissioner of the department of public  
7 safety, or his designee, the commissioner of the department of  
8 mental health, or his designee and six persons to be appointed by  
9 the commissioner of public safety, one of whom shall be a district  
10 attorney, one of whom shall be an attorney experienced in the area  
11 of criminal defense, one of whom shall be a member of the com-  
12 munity access board established under section one of chapter one  
13 hundred and twenty-three A, one of whom shall be a representa-  
14 tive of law enforcement, one of whom is a person with expertise  
15 in the treatment of sex offenders, and one of whom is a person  
16 with experience in the area of sexual abuse and deals with victims  
17 of such sexual abuse. Said members shall serve for terms of four  
18 years; provided, however, that in the initial appointment of  
19 appointive members two members shall serve for two years, two  
20 members for three years and two members for four years. The  
21 commissioner of public safety or his designee shall serve as chair-  
22 person. Said members shall serve without compensation but shall  
23 be reimbursed for all expenses necessarily incurred in connection  
24 with their official duties.

25 There shall be an executive secretary of the board who shall  
26 assist the members in their responsibilities. Such clerical, tech-  
27 nical and other assistants required by the board shall be assigned  
28 by the commissioner.

29 The board shall develop and prescribe a standardized procedure  
30 for the evaluation and identification of sex offenders, as defined in  
31 section eighty-seven B of chapter two hundred and seventy-six.  
32 Such procedure shall provide for an evaluation and identification  
33 of the offender and recommend behavior management, moni-  
34 toring, and treatment based upon the knowledge that sex offenders  
35 are extremely habituated and that there is no known cure for the

36 propensity to commit sex abuse. The board shall develop and  
37 implement measures of success based upon a no-cure policy for  
38 intervention. The board shall develop and implement methods of  
39 intervention for such sex offenders which have as a priority the  
40 physical and psychological safety of victims and potential victims  
41 and which are appropriate to the needs of the particular offender,  
42 provided that there is no reduction of the safety of victims and  
43 potential victims.

44 The board shall develop guidelines and standards for a system  
45 of programs for the treatment of such sex offenders which can be  
46 utilized by offenders who are placed on probation or parole or  
47 required to perform community service. Such programs shall be as  
48 flexible as possible so that such programs may be utilized by each  
49 offender to prevent him from harming victims and potential vic-  
50 tims. Such programs shall be structured in such a manner that the  
51 programs provide a continuing monitoring process as well as a  
52 continuum of treatment programs for each offender as that  
53 offender proceeds through the criminal justice system and may  
54 include, but shall not be limited to, group counseling, individual  
55 counseling, outpatient treatment, inpatient treatment, or treatment  
56 in a therapeutic community. Such programs shall be developed in  
57 such a manner that, to the extent possible, the programs may be  
58 accessed by all offenders in the criminal justice system. The pro-  
59 cedures for evaluation, identification, treatment, and continued  
60 monitoring required to be developed pursuant to this section shall  
61 be implemented only to the extent moneys are available in the sex  
62 offender surcharge trust fund established in section sixty-two of  
63 chapter ten.

64 The board shall research and analyze the effectiveness of the  
65 evaluation, identification, and treatment procedures and programs  
66 developed pursuant to this section. The board shall also develop  
67 and prescribe a system for tracking offenders who have been sub-  
68 jected to evaluation, identification, and treatment pursuant to this  
69 section. The board shall develop a system for monitoring offender  
70 behaviors and offender adherence to prescribed behavioral  
71 changes. The results of such tracking and behavioral monitoring  
72 shall be a part of any analysis made pursuant to this paragraph.

73 The board and the individual members thereof shall be immune  
74 from any liability, whether civil or criminal, for the good faith  
75 performance of the duties of the board as specified in this section.

76 SECTION 3. Chapter 127 of the General Laws is hereby  
77 amended by inserting after section 133B the following section:—

78 Section 133C. On and after January first, nineteen hundred and  
79 ninety-six, each sex offender, as defined in section eighty-seven B  
80 of chapter two hundred and seventy-six, who is to be considered  
81 for parole shall be required, as a part of any investigation, to  
82 submit to an evaluation for treatment, an evaluation for risk, pro-  
83 cedures required for monitoring of behavior to protect victims and  
84 potential victims, and an identification developed pursuant to  
85 section twenty-one of chapter twenty-two. Said evaluation and  
86 identification shall be at the expense of the person evaluated,  
87 based upon such person's ability to pay for such treatment.

88 Notwithstanding any provisions of law to the contrary, each sex  
89 offender, as defined in section eighty-seven B of chapter two hun-  
90 dred and seventy-six, placed on parole by the parole board, on or  
91 after January first, nineteen hundred and ninety-six, shall be  
92 required, as a condition of such parole, to undergo treatment to the  
93 extent appropriate to such offender based upon the recommenda-  
94 tions of the evaluation and identification pursuant to this section  
95 or any evaluation or subsequent reevaluation regarding such  
96 person during any period of parole. Any such treatment shall be at  
97 such person's expense, based upon such person's ability to pay for  
98 such treatment.

1 SECTION 4. Chapter 276 of the General Laws is hereby  
2 amended by inserting after section eighty-seven A the following  
3 section:—

4 Section 87B. As used in this section, the following terms shall,  
5 unless the context clearly indicates otherwise, have the following  
6 meanings:—

7 "Sex offender", any person who is convicted in the common-  
8 wealth, on or after January first, nineteen hundred and ninety-six,  
9 of any sexual offense or of any criminal offense, if such person  
10 has previously been convicted of a sexual offense, or if such  
11 person has previously been convicted in any other jurisdiction of  
12 any offense which would constitute a sexual offense as defined in  
13 this section or if such person has a history of any sexual offenses.

14 "Sex offender treatment board", the board established in section  
15 twenty-one of chapter twenty-two.

16 “Sex Offender Surcharge Trust Fund”, the fund established in  
17 section sixty-two of chapter ten.

18 “Sexual offense”, includes any of the following crimes: inde-  
19 cent assault and battery on a child under fourteen under the provi-  
20 sions of section thirteen B of chapter two hundred and sixty-five;  
21 indecent assault and battery on a mentally retarded person under  
22 the provisions of section thirteen F of chapter two hundred and  
23 sixty-five; indecent assault and battery on a person who has  
24 attained the age of fourteen under the provisions of section thir-  
25 teen H of chapter two hundred and sixty-five; rape under the pro-  
26 visions of section twenty-two of chapter two hundred and  
27 sixty-five; rape of a child under sixteen with force under the pro-  
28 visions of section twenty-two A of chapter two hundred and sixty-  
29 five; rape and abuse of a child under sixteen under the provisions  
30 of section twenty-three of chapter two hundred and sixty-five;  
31 assault with intent to commit rape under the provisions of section  
32 twenty-four of chapter two hundred and sixty-five; unnatural and  
33 lascivious acts with a child under the age of sixteen under the pro-  
34 visions of section thirty-five A of chapter two hundred and  
35 seventy-two; and any attempt to commit any of the above listed  
36 crimes under the provisions of section six of chapter two hundred  
37 and seventy-four.

38 On and after January first, nineteen hundred and ninety-six,  
39 each sex offender who is to be considered for probation shall be  
40 required, as a part of any presentence or probation investigation,  
41 to submit to an evaluation for treatment, an evaluation for risk,  
42 procedures required for monitoring of behavior to protect victims  
43 and potential victims, and an identification developed pursuant to  
44 section twenty-one of chapter twenty-two. Said evaluation and  
45 identification shall be at the expense of the person evaluated,  
46 based upon such person’s ability to pay for such treatment.

47 Each sex offender sentenced by the court for an offense com-  
48 mitted on or after January first, nineteen hundred and ninety-six  
49 shall be required, as a part of any sentence to probation or com-  
50 munity service to undergo treatment to the extent appropriate to  
51 such offender based upon the recommendations of the evaluation  
52 and identification made pursuant to this section, or based upon  
53 any subsequent recommendations by the department of correc-  
54 tions, the judicial department, or the department of public safety,

55 whichever is appropriate. Any such treatment and monitoring  
56 shall be at such person's own expense, based upon such person's  
57 ability to pay for such treatment.

1 SECTION 5. Chapter 279 of the General Laws is hereby  
2 amended by inserting after section 4B the following section:—

3 Section 4C. Notwithstanding the provision of any law to the  
4 contrary, on and after July first, nineteen hundred and ninety-six,  
5 each person convicted of a sexual offense as defined in section  
6 eighty-seven B of chapter two hundred and seventy-six shall pay a  
7 surcharge to the clerk of the court in which the conviction occurs  
8 in the amount of five hundred dollars. Said surcharge shall be  
9 credited to the sex offender surcharge trust fund established in  
10 section sixty-two of chapter ten for the purposes set forth therein.

11 The court may waive all or any portion of the surcharge  
12 required by this section if the court finds that a person convicted  
13 of a sex offense is indigent or financially unable to pay all or any  
14 portion of such surcharge. The court shall waive only that portion  
15 of the surcharge which the court has found that the person con-  
16 victed of a sex offense is financially unable to pay.

1 SECTION 6. The sex offender treatment board shall develop  
2 the procedures, guidelines, standards and programs set out in  
3 section twenty-one of chapter twenty-two of the General Laws on  
4 or before January first, nineteen hundred and ninety-six.

1 SECTION 7. The sex offender treatment board shall develop a  
2 plan for the allocation of moneys deposited in the Sex Offender  
3 Surcharge Trust Fund established in section sixty-two of chapter  
4 ten of the General Laws. Said board shall coordinate the expendi-  
5 ture of moneys from the sex offender surcharge fund with any  
6 moneys expended by any department for purposes of identifica-  
7 tion, evaluation, and treatment of sex offenders. Said plan devel-  
8 oped pursuant to this section shall be submitted to the general  
9 court on or before January first, nineteen hundred and ninety-six.

1 SECTION 8. The sex offender treatment board shall report to  
2 the senate and house of representatives on or before January first,

3 nineteen hundred and ninety-six regarding the implementation of  
4 this act, and the standardized procedures developed pursuant to  
5 this act.